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HIGH COURT OF CHHATTISGARH BILASPUR

CRIMINAL REVISION NO. 286 OF 2006

REVISIONER Motilal Pandey

VERSUS

RESPONDENT State of Chhattisgarh

And

CRIMINAL REVISION NO. 640 OF 2006

REVISIONER Pankaj Agrawal

VERSUS

RESPONDENT State of Chhattisgarh

ORDER

POST ON 16 OCTOBER 2007

Sd/-
Dhirendra Mishra
Judge

(29)

HIGH COURT OF CHHATTISGARH BILASPUR

CRIMINAL REVISION NO. 286 OF 2006

REVISIONER — Motilal Pandey, S/o Ramswarup Pandey, aged about 65 years, occupation business, R/o village Kewara, P.S. Pratappur, Distt. Surguja, C.G.

VERSUS

RESPONDENT — State of Chhattisgarh Through S.H.O. Bhatgaon (chowki), P.S. Pratappur, Distt. Surguja, C.G.

And

CRIMINAL REVISION NO. 640 OF 2006

REVISIONER — Pankaj Agrawal, S/o Chiranjilal Agrawal, aged about 25 years, occupation Business, R/o village Aghina (Salka) Chowki Bhatgaon, P.S. Pratappur, Tahsil Surajpur, Distt. Surguja (C.G.)

VERSUS

RESPONDENT — State of Chhattisgarh Through S.H.O. Chowki, Bhatgaon, Distt. Surguja, C.G.

Present:
Mr. A.K. Shukla, counsel for the revisioner.
Mrs. Madhunisha Singh, Panel Lawyer for the State.

ORDER

(Passed on 16th October 2007)

Dhirendra Mishra, J.

By this order criminal revision No. 286/06 preferred by applicant Motilal Pandey and criminal revision No. 640/06 preferred by applicant Pankaj Agrawal, are being disposed of as both these revisions are directed against the common order dated 7th April 2006 passed in their applications for interim custody No. Nil (Sessions Case No. 106/06) whereby their applications have been rejected by the II Additional Sessions Judge (F.T.C.), Surajpur, Surguja.

2. Learned counsel for the applicants submitted that the application preferred by Devendra Kumar Soni for interim custody of the Martial Jeep bearing registration No. C.G.15 ZD 1556, registered in the name of Pankaj Kumar Agrawal who has sold the said vehicle to Devendra Kumar Soni, which was seized from its driver accused

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Puran Kumar Soni and application preferred by applicant Motilal Pandey for interim custody of Mahendra Max Jeep bearing registration No. C.G. 15 B 0630, registered in his name, which was seized from the custody of its driver Virendra in connection with crime No. 102/05 for the offence punishable under Sections 147, 148, 149, 307, 302, 385, 120B, 124A of IPC, 25/27 of Arms Act and 38, 39 A(1-II) B(1-II) of Unlawful Activities (Prevention) Act, 1967 (for brevity 'the Act of 1967'), have been rejected by the learned trial Court by the impugned order with an observation that as per Sections 26, 27, 30 & 33 of the Act of 1967, the properties owned by the accused persons involved in the offences punishable under this Act are liable for confiscation.

3. Learned counsel argued that it is settled law that powers under Section 451 of the Cr.P.C. should be exercised expeditiously and judiciously and there is no use in keeping the seized vehicles at police station for a long period. The vehicle should not be kept as redundant in police station as it become junk day by day. The denial for interim custody of the vehicle during pendency of the trial causes irreparable injury to the owners of the vehicles and it is also a national loss. While delivering the seized vehicles in the interim custody of its owner on Supurdginama, interest of the prosecution can be secured by imposing certain appropriate conditions for production of the vehicles during trial or at the conclusion of trial.

4. I have heard learned counsel for the applicants.

5. From perusal of the record, it appears that the above vehicles were seized on 30.4.2005 and since then, they are lying unattended in the police station and becoming junk with the passage of time. The reasons assigned by the learned trial Court that the vehicles are liable for confiscation at the conclusion of trial under the Act of 1967, for refusing interim custody, does not appear to be proper and the same cannot be sustained.

6. Consequently, the revision petitions are allowed. Order impugned dated 7th April 2006 is set aside. It is directed that vehicle No. C.G.15 ZD 1556 and vehicle No. C.G. 15 B 0630, shall be delivered to applicant Pankaj Kumar Agrawal and Motilal Pandey, respectively on *Supurdginama* on each of them producing original

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registration certificate of their respective vehicles and further satisfying the following conditions:

(i) Each of them furnishes a personal bond of Rs. 4,00,000/- with two solvent sureties for a sum of Rs.2,00,000/- each to the satisfaction of the trial Court undertaking to produce the vehicles in the Court as and when required to do so.

(ii) They shall get their vehicles photographed showing the registration numbers as well as their chassis numbers in the presence of investigating officer, to be kept on the file of the case.

(iii) The personal bonds of the applicants and the bonds of the sureties shall carry the photographs of the applicants and their sureties and the bonds of sureties shall further carry photographs of the persons identifying them before the Court with full residential particulars of the sureties and the persons identifying them.

(iv) The applicants shall undertake not to transfer the ownership of the vehicles and not to lease the same to any one and not to make or allow any changes in it to be made so as to make it unidentifiable.

Sd/-
Dhirendra Mishra
Judge

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